

**DECISION**

**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D.C. 20548

**FILE:** B-221808

**DATE:** April 23, 1986

**MATTER OF:** Professional Carpet Service

**DIGEST:**

Contracting agency should have acquired needed services under protester's mandatory Federal Supply Schedule (FSS) contract rather than under invitation for bids (IFB) where FSS contract was awarded prior to IFB bid opening and cost of services did not exceed the maximum order limitation in the FSS contract.

Professional Carpet Service protests the award of any contract under invitation for bids (IFB) No. F49642-86-B-0142, issued by the Air Force for removal and installation of government-furnished carpet at Bolling Air Force Base (AFB), Washington, D.C. The protester maintains that the Air Force was required to acquire the services through the protester's mandatory Federal Supply Schedule (FSS) contract instead of awarding a contract under the IFB. We sustain the protest.

The IFB, calling for removal and installation of 27,509 square yards of carpet in various buildings at Bolling AFB, was issued on December 17, 1985, with bid opening on January 17, 1986. On January 15, the protester was awarded a mandatory FSS contract, covering the geographic area which includes Bolling AFB, for the carpet removal and installation services called for in the IFB.

The Air Force concedes that the protester advised the contracting officer on January 15, before bid opening under the IFB, that the FSS contract had been awarded. The Air Force maintains that the services could not be ordered under the FSS contract, however, because the cost of the services required under the IFB exceeded the \$100,000 maximum order limitation (MOL) in the FSS contract. The Air Force states that it informally contacted the General Services Administration, which awarded the protester's FSS contract, and was advised that use of the

FSS contract was not required under the circumstances. As a result, the contracting officer proceeded with bid opening on January 17, and awarded a contract to the lowest bidder on January 20.

Where, as here, there is a mandatory FSS contract in effect, an agency generally must order its requirements under that contract if its minimum needs will be met by the products or services listed in the contract. Lanier Business Products, Inc., B-209299, July 7, 1983, 83-2 CPD ¶ 66. An order may not be placed under the FSS contract, however, if the amount of the order would exceed the contract's MOL. See Federal Acquisition Regulation, 48 C.F.R. § 8.404-1(c) (1984); Quest Electronics, B-193541, Mar. 27, 1979, 79-1 CPD ¶ 205. The Air Force argues that the order in this case would have exceeded the \$100,000 MOL in the protester's FSS contract based on the Air Force's estimated cost of the services (\$140,000) and the protester's bid under the IFB (approximately \$300,000). We disagree.

Whether an MOL will be exceeded is calculated by reference to the prices in the FSS contract, not the agency's cost estimate or other figure. Here, the protester's total FSS contract price for the amount of carpet covered by the IFB is under the MOL. The FSS contract prices are as follows: (1) carpet removal - \$2 per square yard for carpet previously installed by cementing, or \$1.74 per square yard for carpet previously installed by the tackless method; and (2) carpet installation - \$1.62 per square yard for quantities over 50 square yards, including moving furniture. It is unclear from the IFB whether the carpet to be removed had been installed by cementing or by the tackless method; using either figure, however, the total FSS contract price is under the \$100,000 MOL.<sup>1/</sup> In addition, the contracting officer was aware


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<sup>1/</sup> Removing old cemented carpet (\$2/sq. yd.) plus installation of new carpet (\$1.62/sq. yd.) = \$3.62 x 27,509 sq. yds. = \$99,582.58. Removing old tackless carpet (\$1.74/sq. yd.) plus installation of new carpet (\$1.62/sq. yd.) = \$3.36 x 27,509 sq. yds. = \$92,430.24.

that the FSS contract had been awarded before bids were opened under the IFB. Under these circumstances, we see no justification for proceeding with the award. See MICA, Inc., B-200735, June 22, 1981, 81-1 CPD ¶ 513. We therefore sustain the protest.

The Air Force has advised us that the contract has been substantially completed, hence we are unable to recommend corrective action with regard to this procurement. By separate letter, however, we are bringing the matter to the attention of the Secretary of the Air Force with our recommendation that action be taken to ensure that proper procedures are followed in the future.

As a result of the Air Force's decision to award a contract under the IFB, the protester was deprived of an order it otherwise would have received under its FSS contract. In these circumstances, we find that the protester was unreasonably excluded from the procurement and therefore is entitled to recover the costs of filing and pursuing the protest. See Bid Protest Regulations, 4 C.F.R. § 21.6(e) (1985). The protester's claim for these costs should be submitted directly to the contracting agency.

  
for Comptroller General  
of the United States